



**THE ATTORNEY GENERAL
OF TEXAS**

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February 28, 1972

Honorable Joe Resweber
County Attorney
Harris County Courthouse
Houston, Texas 77002

Opinion No. M-1086

Re: Whether the Harris County
Commissioners Court has
authority to enter into
a contract with the Harris
County Pre-Trial Release
Agency for the furnishing
of background information
to be used by the appro-
priate officer in setting
bail.

Dear Mr. Resweber:

You have asked our opinion whether the Harris County Commissioners Court has authority to enter into a contract with the Harris County Pre-Trial Release Agency, an organization that proposes to investigate the background of prisoners so that recommendations as to the appropriate amount of bond can be formulated.

The stated purpose and function of the Agency is as follows:

"The purpose of this project is to establish in Harris County a program under which certain categories of prisoners may be released from jail pending trial, either on personal bond or on a lower bond than might otherwise be required. Generally, all persons arrested (except certain categories, such as homicide, armed robbery, narcotics and sex crimes) will be interviewed shortly after arrest. The interview is voluntary. It will ascertain the prisoner's prior criminal record, family job, (sic) stability, residential stability, community ties, i.e., all information tending to show whether a prisoner will appear for trial. The information will be verified by project personnel. Results of the interview will be graded, and if

favorable, the prisoner will be recommended for release. Before release, he must provide an address at which he can be notified of trial date, must promise to appear for trial or if otherwise needed in Court or by the police.

"The program will return prisoners to their families and jobs pending trial, relieves jail overcrowding and inspires confidence in the criminal justice system by releasing those who are good risks who might otherwise remain in jail pending trial because of inability to raise bail money."

The power, authority and jurisdiction of the county Commissioners Court extends to such business of the county as is entrusted to it by the Constitution of Texas and by legislative enactment. Article 5, Section 18, Texas Constitution. Article 2351, Section 15, provides that the Commissioners Court shall have all such other powers and jurisdiction, and shall perform all such other duties, as are now or may hereafter be prescribed by law.

Article 2372p-1, Sections 1 and 3, Vernon's Civil Statutes provides as follows:

"Sec. 1. For the purpose of providing timely and effective assistance of counsel to those persons accused of crime and who are financially unable to employ counsel on their own, the commissioners court of any county in this state having a population of more than 1,200,000, according to the last preceding federal census, may contract with some already established bar association, nonprofit corporation, nonprofit trust association or any other nonprofit entity (which has for its purpose the providing of timely effective assistance of counsel for the indigent accused of crime) to assist the courts in providing the timely and effective assistance of counsel.

"Sec. 2. . . .

"Sec. 3. Likewise, for the purpose of providing the judge before whom a criminal case is


pending the information necessary for making a proper determination as to whether or not the accused should be released on personal bond as authorized by Article 17.03, Code of Criminal Procedure, 1965, the commissioners court of any such county may contract with such above named entity to interview the accused, to verify the information given, to make the appropriate recommendation as to release to the judge of the court where the case is pending, and, if the accused is released on his personal bond, to assure the judge of the court that such entity will assist in securing the presence of the accused at his trial." (Emphasis Added.)

Accordingly, the Commissioners Court of Harris County has statutory authority to enter into this contract described in your opinion request. Article 2372p-1 applies to those counties attaining a population of more than 1,200,000, which would also include at least Dallas County at this time. We have been furnished with no facts showing any constitutional infirmity and thus presume that the statute is valid. It is not on its face a special law and is not so framed as to exclude probability that it would apply to other counties in the future. Bexar County v. Tynan, 128 Tex. 223, 97 S.W.2d 467 (1936).

S U M M A R Y

The Harris County Commissioners Court may enter into a contract with the Harris County Pre-Trial Release Agency whereby the Agency obtains pertinent information to be furnished to the Court in which a case is pending so that a more meaningful determination as to the amount of bond can be made.

Yours very truly,


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APPROVED:
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